

Application 10/751,166
Response to Office Action Dated June 27, 2006

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Remarks

Claims 5-11 were pending and were rejected in Examiner's Office Action dated June 27, 2006. Claims 5-10 were rejected under 35 U.S.C. 101 as claiming a series of abstract ideas. Claim 11 was rejected under 35 U.S.C. 102(b) as being anticipated by Tzeng (U.S. Patent No. 5,938,204.)

Claims 5-11 have been cancelled and new claims 12-15 have been added. Support for the new claims can be found at page 3, line 26 through page 4, line 27; page 5, lines 22-24; page 6, lines 25-30; page 7, lines 5-10; page 7, lines 15-20; page 8, lines 21-29; page 16, lines 7-26; page 18, line 13 through page 16, line 6; page 19, line 8 through page 20, line 6; page 20, line 26 through page 21, line 15; page 21, line 25 through page 22, line 15; and page 23, lines 6-9. New claim 12 combines subject matter from previously pending claims 5 and 11.

Applicant acknowledges with appreciation the courtesy of a telephonic interview of August 3, 2006 involving Examiner Mitra Aryanpour and applicant's attorney Timothy Murphy. Prior to the interview, applicant's attorney provided Examiner a Proposed Amendment containing proposed claims 11-21. During the interview, Examiner and applicant's attorney discussed the patentability of proposed amended claim 11 and proposed new claims 12-21. Examiner stated her position that the proposed amendments did not patentably distinguish the invention over the prior art. Examiner also stated her position that proposed claim 11 was an apparatus-type claim and that the proposed functional language did not limit the structure of the claimed invention. With regards to the proposed method claims, the Examiner stated her position that the claims merely represented abstract ideas and were not patentable. No agreement as to allowable subject matter was reached.

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As Examiner states in the Office Action of June 27, 2006, in order to be patentable subject matter, MPEP 2106(II)(A) requires "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result.' *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02." Further, according to the *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility*, the focus is not on the steps taken to achieve a particular result, but rather if the result itself is useful, tangible and concrete. See *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility* (2005), page 20. Applicant believes that the new claims 12-15 are directed to such a useful, concrete, and tangible result. The new claims use a scoring method to assign raw scores, determine final scores, rank teams, and determine a winner. Once a winner is determined, the winner is displayed. The result of ranking and determining a winner, and displaying the winner is a useful, concrete, and tangible result. Therefore, applicant believes that new claims 12-15 are patentable subject matter.

Examiner rejected claim 11 under 35 U.S.C. 102(b) as being anticipated by Tzeng. Applicant would like to point out that Tzeng does not teach many of the limitations of new claims 12-15. Tzeng discloses an amusement exercise using a ball shooter and a net. In Tzeng, the ball shooter shoots colored balls at a player, requiring the player to either block or dodge the balls depending on the color. A player's score is determined based on the number of balls blocked and dodged. Tzeng fails to disclose robots controlled by teams and designed to repetitively accomplish a physical task, performance of which triggers attribution of a raw score to the team. Additionally, Tzeng fails to disclose determining a final score for the team in each heat with the higher raw score, wherein the final score is that team's raw score enhanced by the raw score of the other team participating in the heat. Lastly, Tzeng fails to disclose ranking the teams based on their final scores, and designating and displaying a winner.

Accordingly, applicant believes that new claims 12-15 are in condition for allowance. Consideration of the application and issuance of a notice of allowance are respectively requested.

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Applicant does not believe that any extension of time is required for timely consideration of this response. In the event that an extension has been overlooked, applicant requests that deposit account number 19-4972 be charge for any fees that may be required for the timely consideration of this application.

Respectfully submitted,



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